UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

JOSEPH HAGINS and LINDA SZYMORIAK-HAGINS, d/b/a HIS AND HERS BEAUTY SPA

Respondent

and

Cases 16-CA-028076 16-CA-062829

UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 455

Charging Party

COUNSEL FOR THE ACTING GENERAL COUNSEL'S RESPONSE TO RESPONDENT'S LETTERS TO THE BOARD

On December 29, 2011 the Acting General Counsel of the National Labor Relations Board (Board) issued a Consolidated Complaint and Notice of Hearing, setting a hearing for March 9, 2012. When Respondent failed to timely file an Answer to the Consolidated Complaint, on January 19, 2012, Counsel for the Acting General Counsel advised Respondent, in writing, that it had failed to timely file an Answer and of the consequences of a failure to file an Answer to the Consolidated Complaint. Respondent was provided an additional week to file an Answer. Notwithstanding this reminder and the additional time to file, Respondent failed to file an Answer and on February 9, 2012, Counsel for the Acting General Counsel filed with the Board a Motion for Default Judgment due to Respondent's failure to file an Answer to the Consolidated Complaint and Notice of Hearing.

On February 10, 2012, the Board issued an Order Transferring Proceeding to the Board and Notice to Show Cause, in which it indefinitely postponed the hearing scheduled for March 9, 2012 and required Respondent to show cause, in writing, why the Acting General Counsel's Motion should not be granted.

On or about February 21, 2012, Respondent, by Joseph Hagins, mailed a letter (Attachment A) to the Board. Respondent did not serve this letter on Counsel for the Acting General Counsel or anyone else in the Region. Additionally, the letter did not respond to any of the allegations in the Consolidated Complaint.

On or about July 17, 2012, the Board notified Respondent's bankruptcy attorney, Antonio Martinez, that Respondent's February 21 letter to the Board was not properly served on all of the parties. Specifically, the Board's letter noted that Respondent's February 21 letter must be served on the Board's Regional office (Region 16) and on the Charging Party no later than July 31, 2012.

On or about July 29, 2012, Respondent served the Board's Regional office (Region 16) with a copy of its February 21 letter. (Attachment B)

On or about August 10, 2012, the Charging Party's attorney, Patrick Flynn, advised Region 16 that he did not receive the Board's July 17 letter or Respondent's February 21 or July 28 letters, but acknowledged the Charging Party received Respondent's letter (initially dated February 21, 2012) on or about July 28, 2012.

Respondent's letter of February 21, 2012, served on the Charging Party and Region 16 on July 28, 2012, does not address any of the allegations in the Consolidated Complaint. Indeed, in the more than seven months since the Consolidated Complaint issued, Respondent has not admitted, denied or stated no knowledge of the allegations in

the Consolidated Complaint. Respondent provides no good cause for its lack of response. As a result, the allegations should be deemed as admitted to be true. Sec. 102.20 of the Board's Rules. Respondent's letter is not an Answer that complies with Sections 102.20 and 102.21 of the Board's Rules and Regulations, Series 8, as amended.

Furthermore, Respondent's letter does not Show Cause as to why Counsel for the Acting General Counsel's Motion for Default Judgment should not be granted. Respondent was notified of this Order in February and has been given numerous opportunities to answer the allegations in the Consolidated Complaint. To date, Respondent has failed to respond to any of the allegations in the December 29, 2011 Consolidated Complaint.

Because Respondent's letter does not answer the allegations in the Consolidated Complaint, or respond to the Board's Order to Show Cause, Counsel for the Acting General Counsel urges that its Motion for Default Judgment be granted and requests the following pursuant to the Motion for Default Judgment:

- (1) Grant Counsel for the Acting General Counsel's Motion for Default Judgment;
- (2) Make a Finding that all of the allegations in the Consolidated Complaint are true;
- (3) Issue a Decision and Order finding Respondent's conduct in decreasing pay for new hires from 56% to 50% violated Section 8(a)(5) of the Act; and
- (4) Provide any further relief as the Board may deem to be appropriate in order to effectuate the policies and purposes of the Act.

DATED at Fort Worth, Texas, this 15th day of August 2012.

Arturo A. Laurel

Counsel for the Acting General Counsel

National Labor Relations Board

Region Sixteen

Room 8A24, Federal Office Building

819 Taylor Street

Fort Worth, Texas 76102

CERTIFICATE OF SERVICE

I hereby certify that on this date copies of the foregoing Counsel for the Acting General Counsel's Response to Respondent's Letters to the Board dated August 15, 2012, were served by electronic mail or overnight mail on the following parties.

JOSEPH HAGINS and LINDA SZYMORIAK-HAGINS, d/b/a HIS AND HERS BEAUTY SPA 27404 Daniella Court Harlingen, TX 78552-5441

Patrick Flynn 1225 North Loop W Suite 1000 Houston, TX 77008-1775

pat@pmfmc.com

Bailey & Gaylen Antonio Martinez 4900 N. 10th Street, Suite E-2 McAllen, Texas 78504

amartinez@galyen.com

DATED at Fort Worth, Texas, this 15th day of August 2012.

Arturo A. Läurel

Counsel for the Acting General Counsel

National Labor Relations Board

Region 16

819 Taylor Street, RM 8A24

Fort Worth, TX 76102-6178

Linda Szymoniak-Hagins His and Hers Beauty Spa Harlingen, Tx. 78552

United States Government National Labor Relations Board 1099 14th Street, N.W. Washington, D.C. 20570-0001

February 21, 2012

I, Joseph Hagins (manager) represent my wife, Linda Szymoniak-Hagins (CEO), His and Hers Beauty Spa. We oppose any hearings to be transferred to Washington in regards to Case 16-CA-28076 and 16-CA-62829. The reasons for opposing this transfer and any other proceeding in this matter or against Linda Szymoniak Hagins or myself is due to our current Bankruptcy (10-10679) status, and can not afford such traveling expenses. We filed Bankruptcy in November 2011 and it has also been confirmed. I have communicated with Meike Ziegler (NLRB investigator) since July 2011 and informed her of our Bankruptcy status. Though I had been informed by my attorney that creditors are not to harass or attempt to collect on debts, while one is in bankruptcy, I continuously received emails and letters from the office of Mrs Zielger.

I attempted to respond to the NLRB letters and emails sent by Mrs Ziegler the best to my knowledge, but then instructed to her to please contact my Bankruptcy attorneys. My attorneys failed to respond to her calls and emails, so therefore deadlines for responses that were set by the NLRB were not met. My calls and emails were also not answered by my attorneys, therefore I am sending you this letter requesting this case not be transferred. I have now involved other agencies in order to get my attorneys to be more compliant to my assistance. Therefore please send all correspondence to my bankruptcy attorney and copy Linda Szymoniak—Hagins at the address you have on file.

Respectfully.

Joseph and Linda Szymoniak-Hagins His and Hers Beauty Spa

Cc: Bailey and Gaylen Antonio Martinez (Attorney) 4900 N. 10th St. Suite E-2 McAllen, Tx. 78504

Cc: Cindy Boudlouche (Trustee)
555 N. Carancahua Ste 600
Corpus Christi, Tx. 78401-0823

Linda Szymoniak-Hagins His and Hers Beauty Spa Harlingen, Tx. 78552

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McAllen, Tx. 78504

Cc: Cindy Boudlouche (Trustee)
555 N. Carancahua Ste 600
Corpus Christi, Tx. 78401-0823

AFFIDAVIT OF SERVICE BY MAIL

- I, Linda Szymoniak-Hagins, the undersigned mailer, being of sound mind and under no duress, do hereby certify, attest and affirm that the following facts are true and correct, to wit:
- 1. That on July 29, 2012, on behalf of United Food and Commercial Workers Local Union No. 455, the undersigned personally mailed the following documents and transmitted them via United States Postal Service to wit:

February 21, 2012- letter to the National Labor Relations Board

at Harlingen, Texas one complete set of copies of the documents as described above properly enveloped and addressed to addressee(s) and address(es) as follows:

United Food and Commercial Workers Local Union No. 455 121 Northpoint Dr. Houston, Texas 77060-3207

Chad Young, Director & International Vice President UFCW Region 5---South Central 1705 W. Northwest Hwy, Suite 150 Grapevine, Texas 76051-8123

Nicholas W. Clark, General Counsel, United Food and Commercial Workers International Union 1775 K Street, N.W., Suite 260 Washington,, District of Columbia 20006-1502

Cindy Boudlouche, Trustee 555 N. Carancahua, Suite 600 Corpus Christi, Texas 78401-0823

Martha Kinard, Regional Director NLRB Region 16 819 Taylor Street Room 8A24 Fort Worth, Texas 76102-6107

- 2. That I am at least 18 years of age.
- 3. That I am not related to the recipient(s) by way of blood, adoption, marriage or employment, but serve as a "disinterested third party" (herein server) and further,
- 4. That I am in to way connected to or involved in or with, the person and or matter at issue in this action.

I now affix	my signature to these affirmation	is this 30^{7}	date of	
July		HARLINGE	EN, TEXAS	

STATE OF TEXAS COUNTY OF CAMERON, SS:



Notary Public

NOTARY PUBLIC STATE OF TEXAS

Title (and Rank)

My commission expires 01-10-2016